

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4055

IN THE MATTER OF:

Served February 17, 1993

Application of JAPAN TRAVELERS)
SERVICE, INC., for a Certificate)
of Authority -- Irregular Route)
Operations)

Case No. AP-92-34

By application accepted for filing December 18, 1992, Japan Travelers Service, Inc. (JTS or applicant), a District of Columbia corporation, seeks a certificate of authority to transport passengers, together with mail, express and baggage in the same vehicles as passengers, in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

Notice of this application was served on December 22, 1992, in Order No. 4030, and JTS was directed to publish further notice in a newspaper and file an affidavit of publication. JTS complied. The application is unopposed.

SUMMARY OF EVIDENCE

JTS's application includes information regarding, among other things, its corporate status, facilities, proposed tariff, finances, and regulatory compliance record.

JTS proposes to commence operations with one 8-passenger limousine and two 10-passenger vans. Transfer and sightseeing service would be offered primarily to pre-formed groups of foreign tourists, predominantly those originating in Japan. Applicant's proposed tariff contains hourly rates and transfer rates.

JTS's legal counsel certifies on its behalf that applicant has access to, is familiar with, and will comply with the Compact, the Commission's rules and regulations, and United States Department of Transportation regulations relating to transportation of passengers for hire.

Applicant filed a balance sheet as of June 30, 1992, showing current assets of \$900,000; net fixed assets of \$58,704; other assets of \$5,129,612; current liabilities of \$9,000; long-term liabilities of \$3,506,000; and equity of \$2,573,316. Applicant's operating statement for the eighteen months ended June 30, 1992, shows operating income of \$5,433,038; operating expenses of \$5,420,113; other income of \$61,694; and net income of \$74,619. Applicant's projected operating statement for the first twelve months of WMATC operations shows WMATC operating income of \$200,000; other operating income of \$4,000,000; operating expenses of \$3,828,745; other income of \$40,000; and net income of \$411,255.

It is certified that neither JTS nor any person controlling, controlled by, or under common control with JTS has any control relationship with a carrier other than JTS.

DISCUSSION

This case is governed by the Compact, Title II, Article XI, Section 7(a), which provides in relevant part that:

. . . the Commission shall issue a certificate to any qualified applicant, . . . if it finds that --

- (i) the applicant is fit, willing, and able to perform [the] transportation properly, conform to the provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and
- (ii) that the transportation is consistent with the public interest.

A finding of fitness requires examination of an applicant's financial fitness, operational fitness and regulatory compliance fitness. The record in this proceeding establishes applicant's financial fitness and operational fitness. There is an issue, however, with respect to applicant's compliance fitness. The Commission recently found that applicant knowingly and willfully violated the Compact by transporting passengers for hire between points in the Metropolitan District without a certificate between June 28, 1988, and September 21, 1992.¹

When an applicant has a record of violations, the Commission considers the following factors in assessing the likelihood of future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether applicant has made sincere efforts to correct its past mistakes, and (5) whether applicant has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.²

The Commission assessed a civil forfeiture against JTS for knowingly and willfully transporting passengers without authority in 8- and 10-passenger vans, once or twice a month, over a 51-month period.³ While these violations were clearly persistent and possibly flagrant, and while there are no mitigating circumstances, JTS has made sincere efforts to correct its past mistakes by cooperating fully with the investigation that led to the Commission's findings of violations and promptly paying the civil forfeiture.

¹ In re Japan Travelers Serv., Inc., No. MP-92-36, Order No. 4019 (Nov. 23, 1992).

² In re Madison Limo. Serv., Inc., No. AP-91-39, Order No. 3891 (Feb. 24, 1992).

³ Order No. 4019.

JTS has demonstrated a willingness and ability to comply with the Compact and our rules and regulations hereafter by entering into an agreement with its attorney and accountant to periodically review its compliance efforts. Evidence that JTS has not operated in violation of the Compact since receiving Order No. 4006 approximately four months ago would further confirm JTS's willingness to comply with the Compact in the future; accordingly, we shall order JTS to file an affidavit of compliance.

On balance, and subject to JTS's confirmation of compliance since receipt of Order No. 4006, we find JTS fit as to prospective regulatory compliance.

CONCLUSION

Based on the evidence in this record, and subject to JTS's further confirmation of compliance fitness, the Commission finds JTS to be fit, willing, and able to perform the proposed transportation properly and to conform with applicable regulatory requirements. It is further found that the proposed transportation is consistent with the public interest.

THEREFORE, IT IS ORDERED:

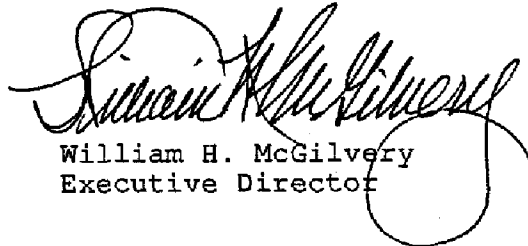
1. That Japan Travelers Service, Inc., 1150-17th Street, N.W., Suite 408, Washington, DC 20036, is hereby conditionally granted, contingent upon timely compliance with the requirements of this order, authority to transport passengers, together with mail, express and baggage in the same vehicles as passengers, in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

2. That Japan Travelers Service, Inc., is hereby directed to file the following documents with the Commission: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 3623; (b) four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) an equipment list stating the year, make, model, serial number, vehicle number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations, and proof of inspection of said vehicle(s); (e) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61, for which purpose WMATC No. 74 is hereby assigned; and (f) an affidavit of compliance with the Compact since receipt of Order No. 4006.

3. That upon timely compliance with the requirements of the preceding paragraph and acceptance of the documents required by the Commission, Certificate of Authority No. 74 shall be issued to Japan Travelers Service, Inc.

4. That unless Japan Travelers Service, Inc., complies with the requirements of this order within 30 days from the date of its issuance, or such additional time as the Commission may direct or allow, the grant of authority herein shall be void and the application shall stand denied in its entirety effective upon the expiration of said compliance time.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS DAVENPORT, SCHIFTER, AND SHANNON:



William H. McGilvery
Executive Director